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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/528,758	08/29/2005	Asoka Korale	CE10051EP	6727
22917	7590	05/16/2008		
MOTOROLA, INC. 1303 EAST ALGONQUIN ROAD IL01/3RD SCHAUMBURG, IL 60196				
EXAMINER				
HEIDER, SHANTELL LAKETA				
ART UNIT		PAPER NUMBER		
2617				
NOTIFICATION DATE		DELIVERY MODE		
05/16/2008		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

Docketing.Schaumburg@motorola.com
APT099@motorola.com

Office Action Summary

Application No.

10/528,758

Applicant(s)

KORALE ET AL.

Examiner

SHANTELL HEIBER

Art Unit

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 5, 11, 12, 15, 16, 18, 22, 23 and 25-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5, 11, 12, 15, 16, 18, 22, 23 and 25-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 3/18/05 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Final Drawing Review (PTO-849)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 3/18/05
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-3, 5, 11, 12, 15, 16, 18, 22, 23 and 25-27 rejected under 35

U.S.C. 102(e) as being anticipated by Mashinsky, U.S. Publication No. 2006/0160543.

Regarding Claim 1, Mashinsky discloses a resource management apparatus for a cellular communication system; comprising a resource controller operable to allocate a radio resource to a subscriber unit in response to an operator identity **(Quality of Service, price, location, mode, band, application type, urgency, customer priority, power requirements, security, etc.)** associated with a service of the subscriber unit, such that different quality of service is achieved for different operators. **(Network 20 is comprised of separate networks from multiple network carriers, connected to at least one proxy server 24 and at least one spectrum management server23. Spectrum management server 23 can efficiently manage the available spectrum by making intelligent allocation decisions by combining intelligence in the spectrum management server 23 with intelligence in the wireless device 400. A proxy server 24 is used to facilitate the spectrum allocation determined by the**

spectrum management server 23 and wireless device 400. The spectrum management server 23 receives a request from a wireless device 400 including different characteristics, such as Quality of Service, price, location, mode, band, application type, urgency, customer priority, power requirements, security, etc. The spectrum management server 23 determines network availability and selects an available network carrier based on the characteristics included in the request; [0038]-[0040]).

3. **Regarding Claims 2 and 26**, Mashinsky discloses wherein the cellular communication system has a common radio access network resource divided into a first partition for a first operator and a second partition for a second operator, and the resource controller is operable to allocate resource from the first partition if the operator identity corresponds to the first operator and from the second partition if the operator identity corresponds to the second operator. **(Networks have finite coverage area, and a user roams from one point to another, he or she might come in and out of the coverage areas of several networks. The carrier selection is also made based on the users location and signal strength; [0061]-[0063]).**

4. **Regarding Claims 3 and 27**, Mashinsky discloses wherein the resource management controller comprises: control means for independently controlling at least one quality of service parameter associated with the first partition of the common radio access network resource in response to a first preference parameter of the first operator, and at least one quality of service parameter associated with the second partition of the common radio access network resource in response to a second

preference parameter of the second operator. **(The request sent to the spectrum management server 23 includes quality of service parameters and preference parameters. Based on the information contained in the request, the spectrum management server 23 selects an available network carrier; [0038]-[0040] and [0061]-[0063]).**

5. **Regarding Claim 5**, Mashinsky discloses wherein the control means comprise a first quality of service controller for independently controlling the at least one quality of service parameter associated with the first partition and a second quality of service controller for independently controlling the at least one quality of service parameter associated with the second partition. **(See rejection for Claim 3).**

6. **Regarding Claim 11**, Mashinsky discloses wherein the first quality of service controller comprises a first power control controller for controlling transmit powers associated with the first partition and the second quality of service controller comprises a second power control controller for controlling transmit powers associated with the second partition. **[0062] and [0063].**

7. **Regarding Claim 12**, Mashinsky discloses wherein the control means is operable to control the at least one quality of service parameter associated with the first partition and the at least one quality of service parameter associated with the second partition in response to at least one common parameter for the first and second partition. **(See rejection for Claim 3).**

8. **Regarding Claim 15**, Mashinsky discloses wherein the resource management apparatus comprises means for dynamically varying the partitioning of resource into said first and second partition. **[0060]-[0063]**.
9. **Regarding Claim 16**, Mashinsky discloses wherein the partitioning of resource into the first and second partition is in response to a resource usage in said first and second partition. **[0060]-[0063]**.
10. **Regarding Claim 18**, Mashinsky discloses wherein both the first and second partition comprises resource associated with equipment shared between the first and second operator. **[0062]**.
11. **Regarding Claim 22**, Mashinsky discloses a cellular communication system comprising a resource management apparatus as claimed in claim 1. **[0038]**.
12. **Regarding Claim 23**, Mashinsky discloses further comprising means for associating the operator identity to a service of a subscriber unit when initiating the service. **[0040] and [0060]**.
13. **Regarding Claim 25**, Mashinsky discloses a method of resource management in a cellular communication system; comprising allocating a radio resource to a subscriber unit in response to an operator identity associated with a service of the subscriber unit, and wherein the step of allocating comprises allocating a first radio resource resulting in a first quality of service if the operator corresponds to a cellular communication system operator and a second radio resource resulting in a different quality of service if the operator identity corresponds to a Mobile Virtual Network Operator. **[0059] and Figure 16**. **See rejection for Claim 1.**

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SHANTELL HEIBER whose telephone number is (571)272-0886. The examiner can normally be reached on Monday-Friday 9:00am-5:30pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lester Kincaid can be reached on 571-272-7922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/S. H./
Examiner, Art Unit 2617
May 11, 2008

/Lester Kincaid/
Supervisory Patent Examiner, Art Unit 2617